

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Sedrick Banks; Monnie Breeland;)	
Leon Capers; Ricardo Doe; Antonio)	
Ferguson; Kevin Haynes; Michael Morris;)	C/A No. 1:14-cv-02214- JMC-KDW
Anthony Rice; and Randy B Young;)	
)	
Plaintiffs,)	
)	
v.)	REPORT AND RECOMMENDATION
)	(as to all remaining Plaintiffs)
Bradley J. O’Neal; Brad Lee O’Neal; Angela)	
O’Neal Chappell; Coosaw Ag, LLC; Coosaw)	
Land, LLC; and Coosaw Transport, Inc.;)	
)	
Defendants.)	
)	

This matter is before the court on Defendants’ motions to dismiss for failure to prosecute and failure to participate in discovery as to all Plaintiffs remaining in this multi-plaintiff matter. *See* ECF No. 91 (Motion to Dismiss as to Plaintiff Sedrick Banks); ECF No. 92 (Motion to Dismiss as to Plaintiff Monnie Breeland); ECF No. 93 (Motion to Dismiss as to Plaintiff Leon Capers); ECF No. 94 (Motion to Dismiss as to Plaintiff Ricardo Doe); ECF No. 95 (Motion to Dismiss as to Plaintiff Antonio Ferguson); ECF No. 96 (Motion to Dismiss as to Plaintiff Kevin Haynes); ECF No. 96 (Motion to Dismiss as to Plaintiff Kevin Haynes); ECF No. 97 (Motion to Dismiss as to Plaintiff Michael Morris); ECF No. 98 (Motion to Dismiss as to Plaintiff Anthony Rice); and ECF No. 99 (Motion to Dismiss as to Plaintiff Randy B. Young).

Originally filed by counsel on behalf of 21 individual plaintiffs, some of whom have voluntarily dismissed their claims or settled them in mediation, Plaintiffs’ claims arise from their employment on Defendants’ farm. *See* Compl., ECF No. 1. As the Motions to Dismiss explain in detail, Defendants have made several unsuccessful attempts to engage in written discovery with the remaining nine Plaintiffs and to depose these Plaintiffs. Earlier attempts to undertake

discovery took place while Plaintiffs were represented by counsel. However, because Plaintiffs did not communicate with their counsel, counsel sought to be relieved of their representation. *See* Order, ECF No. 44. In the Order relieving counsel, the court also advised each remaining Plaintiff that they were proceeding pro se. Plaintiffs were advised of their responsibilities in their case and of the requirement of keeping the court advised of their most current addresses. *Id.* In the most recent scheduling order, the court expressly advised all litigants that all deadlines—including the July 22, 2016 discovery deadline—applied to all parties, including pro se Plaintiffs. ECF No. 72.

After discovery ended, Defendants filed the motions to dismiss that are under consideration, seeking dismissal for failure to participate in discovery and failure to prosecute pursuant to Rules 37 and 41 of the Federal Rules of Civil Procedure. On September 6, 2016, the court sent a *Roseboro*¹ Order to Plaintiffs Banks, Breeland, Capers, Doe, Ferguson, Haynes, Morris, Rice, and Young, advising them of possible consequences if they failed to respond adequately to Defendants' Motions to Dismiss. Plaintiffs were advised that they had until October 11, 2016 to respond to Defendants' Motions to Dismiss. Plaintiffs were further advised that if they did not respond to the Motions to Dismiss, the undersigned would recommend the Motions to Dismiss be granted, and Plaintiffs' claims be dismissed with prejudice. ECF No. 100. No Plaintiff has filed any response to the Motions to Dismiss or to the court's *Roseboro* Order, nor have they otherwise contacted the court regarding the Motions to Dismiss. Accordingly, it appears that Plaintiffs Banks, Breeland, Capers, Doe, Ferguson, Haynes, Morris, Rice, and Young, wish to be dismissed from this case. It is recommended that ECF Numbers 91, 92, 93, 94, 95, 96, 97, 98, and 99 be granted and all remaining Plaintiffs be dismissed from this matter

¹ *See Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975).

with prejudice. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b). If this Report is adopted, this case will be closed.

The Clerk of Court is instructed to send this Report and Recommendation to all remaining Plaintiffs at their last-known addresses by way of both regular and certified U.S. Mail. The court further notes that the September 6, 2016 Roseboro Order mailed to Plaintiff Rice at the address on the court's docket was returned as undeliverable. ECF No. 102. The court notes that Plaintiff Rice did contact the Clerk of Court by telephone with new address information. At that time, Plaintiff Rice was reminded that he was required to provide written notice of any address change. He did not do so. The Motion to Dismiss Plaintiff Rice, ECF No. 98, could also be granted based on the failure to follow the court's order regarding changes of address. In any event, the Clerk of Court is also instructed to mail this Report and Recommendation at the address he provided telephonically. *See* ECF No. 88.

IT IS SO RECOMMENDED.



October 24, 2016
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge

**The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”**